



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/170433

PRELIMINARY RECITALS

Pursuant to a petition filed December 1, 2015, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Brown County Human Services to discontinue FoodShare benefits (FS), a hearing was held on February 24, 2016, at Green Bay, Wisconsin, with the judge appearing by telephone. Hearings set for December 22, 2015 and January 27, 2016 were rescheduled at the petitioner's request.

The issue for determination is whether petitioner complied with FS work program requirements.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Brown County Human Services
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner was required to comply with the FS Employment and Training (FSET) program beginning September 1, 2015. She initially was assigned to job search. She reported that she was employed on September 23, and was placed in the category of full-time employment. Soon after she reported that her employment hours slowed down, so she was called in to the FSET agency on October 27 to update her employability plan.

3. Petitioner missed several appointments to update her plan, but she did turn in employment search logs. Petitioner completed 31 hours of FSET requirements in September, 45 hours in October, and 36 hours in November. Including work hours petitioner did not meet the 80-hour requirement in any of the three months (she worked only eight hours in October and none in September or November).
4. By a notice dated December 1, 2015, the county informed petitioner that FS were denied as of December 1, 2015 because her three months of time-limited FS ended. The county later issued FS for December because petitioner filed the appeal.

DISCUSSION

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement. As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat., §49.79(10), which mandated FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24. The program began in Milwaukee County effective April 1, 2015, and FS recipients were required to meet the requirements beginning with the next FS review completed after April 1, 2015. FS Handbook, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If she does not fulfill the work requirement, she is limited to receiving no more than three months' FS during a three year period. The program's requirements are specified in the Department's FS Handbook at §3.17.1. A person can be exempt from the program if she is unfit for employment, that is, she is unable to work as evidenced by a statement by a health care professional or social worker. Handbook, §3.17.1.5. Petitioner did not allege unfitness to work.

To meet the work requirement the ABAWD must work a minimum of 80 hours per month, participate in a work program 80 hours per month, or a combination of both for 80 hours per month. Handbook, §3.17.1.7. The person is limited to three months of FS eligibility in which she is not meeting the 80-hour requirement and is not exempt. Handbook, §3.17.1.9. FS ends after three months of failing to meet the work requirement, but eligibility can begin again if the person becomes exempt or meets the work requirement for a 30-day period (the person could reapply for FS *after* meeting the requirement for 30 days). Handbook, §3.17.1.11.

It is evident that petitioner was attempting to fulfill the work requirements, but in the end she failed to do so. There is no good cause exemption built into the law to allow for good faith attempts to work with the program. The law says simply that the person must meet the 80-hour requirement or be exempt, or FS will end after three months.

I conclude that the agency correctly ended FS after petitioner failed to meet the work requirement for three months. As noted, petitioner can become eligible again if she meets the requirement for a 30-day period and then reapplies.

CONCLUSIONS OF LAW

Petitioner failed to meet the FS work requirement for three months, and thus the agency correctly discontinued FS under the new time limited benefit policy for able-bodied adults without dependents.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 8th day of March, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 8, 2016.

Brown County Human Services
Division of Health Care Access and Accountability